

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**JAMES ALLEN HIGGINBOTHAM**

**PETITIONER**

V.

**NO. 1:21-CV-00075-MPM-DAS**

**BURL CAIN**

**RESPONDENT**

**ORDER DISMISSING CASE WITHOUT PREJUDICE**

This matter comes before the Court, *sua sponte*, for consideration of dismissal. On April 29, 2021, Petitioner James Allen Higginbotham, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. # 1. On that same date, Petitioner submitted an application for leave to proceed *in forma pauperis* (“IFP”) in this action. Doc. # 3. Because Petitioner had sufficient funds to pay the filing fee, the Court entered an Order on May 3, 2021, denying Petitioner’s IFP application. Doc. # 5. In that Order, the Court directed Petitioner to pay the filing fee within twenty-one days, otherwise his “action may be dismissed.” *Id.* Despite this directive, Petitioner has failed to pay the filing fee and the deadline for doing so has passed. Petitioner, however, signed and returned an Acknowledgement of Receipt, confirming that he received the aforementioned order on May 11, 2021. *See* Doc. # 6. Accordingly, the Court finds that the instant case is hereby **DISMISSED without prejudice** for failure to obey an order of the Court under Rule 41(b) of the Federal Rules of Civil Procedure.

**SO ORDERED**, this the 2nd day of June, 2021.

/s/ Michael P. Mills  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF MISSISSIPPI